

5 December 1975

REPORT OF AGENCY TASK FORCE REVIEW  
OF GAO AUDIT OPTIONS

The Agency Task Force of Directorate representatives established at the request of the Director to develop recommendations for ground rules which should apply to any resumption by GAO of audit of Agency activities has reached conclusions which are set forth in the paragraphs which follow.

I. STATEMENT OF THE PROBLEM

If GAO resumes audit of Central Intelligence Agency activities what limitations or restrictions should apply?

II. OFFICIAL POSITIONS

A. Comptroller General

It is assumed the Comptroller General favors resumption of GAO audit of Agency activities, provided it could have sufficient access to produce meaningful evaluations.

B. House and Senate Select Committees

We infer from conversations with staff representatives of the Committees and from Congressional questions that the Committees are likely to recommend resumption of GAO audit of Agency activities.

C. Rockefeller Commission

The Commission Report made no reference to GAO audit, recommending instead that the President's Foreign Intelligence Advisory Board assume an audit responsibility.

D. Congress

At least one bill has been introduced (by Senator Proxmire) to formally direct resumption of GAO audit of Agency activities at the direction of any of the Oversight Committees.

E. Director of Central Intelligence

The Director is on record as being of the opinion that arrangements can be made for resumption of GAO audit of Agency activities subject to necessary limitations and to agreement on security procedures and on distribution and content of reports on audits.

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### III. DISCUSSION OF OPTIONS

The Task Force in preparing this report gave careful attention to (1) the evolution of statutory authority for Confidential Funds, (2) the history of GAO audit relationships with the Agency, (3) the nature of GAO audits as currently conducted in other agencies and (4) the impact on CIA of resumption of GAO audit of Agency activities.

#### A. Evolution of Statutory Authority for Confidential Funds

The capability of carrying out certain operations in the interest of the United States Government in an extremely secret fashion is a capability that has been continued down through the nation's history. President Washington asked for, and got, a secret "contingent fund" expenditures from which he could account for "by making a certificate of the amount of such expenditure, as he may think it advisable not to specify; and every such certificate shall be deemed a sufficient voucher for the sums therein expressed to have been expended." (Stat. at Large, I, 299). This fund was used by Washington and successive Presidents for their foreign intelligence efforts, and it was well understood that the existence of the fund was grounded on the need for extreme secrecy in certain matters. This rather special capability comes down to us in present times of more complex government in the form of statutory authority for the President's Director of Central Intelligence to exercise control over the expenditures of confidential funds. This is the Director's 8(b) authority the actual terms of which closely parallel the authority given President Washington. The capability for the Government to fund certain sensitive undertakings in a manner consistent with the requirements for strictest secrecy has never been lost or abandoned throughout our history.

#### B. History of GAO audit relationships

1. Initial Audits. Following enactment of the Central Intelligence Agency Act of 1949, the Director, notwithstanding the very broad and unusual powers granted to CIA by the Act, requested site audit of certain expenditures consistent with arrangements initiated in August 1946 with the predecessor Central Intelligence Group. Under those arrangements the site audit covered expenditures referred to as vouchered funds (those which can be accounted for and audited in conformance with the laws that apply to other Government agencies and with standard Government regulations and procedures) as distinguished from confidential funds (accounted for outside the Agency solely by certification of the Director of Central Intelligence under the authority of section 10(b) (now 8(b)) of the CIA Act of 1949.) The audit process was essentially limited to a review of fiscal officers' accounts, including examination of certain related vouchers and other documents

evidencing the expenditure of appropriated funds to determine whether the expenditures were made in accordance with the National Security Act of 1947, the CIA Act of 1949 except Section 8(b) and with laws and regulations generally applicable to Government expenditures. In addition, the site audit staff performed liaison functions between CIA and the General Accounting Office as requested by CIA officials. Potentially questionable expenditures were submitted to the site audit staff for review prior to payment. Reports were not issued to anyone outside CIA, and formal exceptions to the expenditures made were not taken but instead any questions were discussed informally with CIA officials.

2. Expansion of Scope. Subsequent to enactment of the Central Intelligence Act of 1949 the General Accounting Office broadened the type of audit made of the activities of Government agencies generally. Under the new "comprehensive" audit approach the General Accounting Office construed an agency's financial responsibilities as including the expenditures of funds and the utilization of property and personnel in the furtherance of authorized programs or activities in an efficient, economical and effective manner. In 1959 the General Accounting Office asked permission to discontinue audit of CIA, however, the CIA Subcommittee of the House of Representatives Committee on Armed Services requested that the General Accounting Office actually broaden the scope of its audit of CIA activities. This request was made in a letter to the Director of CIA from the Honorable Paul J. Kilday, Chairman, Special Subcommittee on CIA, Committee on Armed Services, dated 19 June 1959. Following a series of extensive discussions, the Director proposed to the Comptroller General in a letter dated 16 Oct 1959 certain principles for the expanded audit. The Comptroller General in his letter to the Director dated 21 Oct 1959 agreed to proceed with plans for the expanded audit on a trial basis within the principles expressed in the Director's letter.

3. Discontinuance of Audit. In 1961, after completion of a trial period, GAO concluded that under existing security restrictions on its audit of CIA activities, it did not have sufficient access to make comprehensive reviews on a continuing basis which would produce evaluations helpful to the Congress. It further determined that continuation of the limited financial audit effort which it had conducted in prior years at the CIA would not serve a worthwhile purpose; it therefore proposed to discontinue all GAO activities at the Agency. At about this same time the Agency was engaged in a major reorganization and strengthening of its comptroller and internal audit functions. (The Agency Audit Staff reports directly to the Director of Central Intelligence through the Inspector General and observes the same audit principles and standards as the GAO.)

Based in part upon these developments and in recognition of the validity of the need for restrictions on the scope of audit the Honorable Carl Vinson, Chairman, Committee on Armed Services, House of Representatives agreed in July 1962 to the Comptroller General's recommendation to terminate all audit efforts; since that time GAO has not conducted any reviews at the CIA nor any reviews which focus specifically on CIA activities except for (a) a Congressionally initiated request for GAO review of the Radio Free Europe program from inception through 30 June 1971 which resulted in issuance by GAO of an unclassified report, B-173239, and a classified supplement, both dated 25 May 1972 and (b) three recent reviews discussed in the next paragraph.

4. Ad Hoc Reviews. Recently, the Honorable Lucien Nedzi, Chairman, Special Subcommittee on Intelligence, requested GAO to review the processes followed for the sale of the assets of two of our air proprietaries whose relationship with the Agency had become generally known to the public. Three reviews have been completed in this regard and classified reports commenting favorably on the method and propriety of the sales issued directly to Mr. Nedzi.

C. Current Nature of GAO audits in other agencies.

1. The objectives of GAO audits are to determine:

a. Whether the agency is carrying out only those activities or programs authorized by the Congress and is conducting them in the manner contemplated to accomplish the objectives intended. Where appropriate, a review is also made for the purpose of considering whether the authorized activities or programs effectively continue to serve their originally intended purpose.

b. Whether the programs and activities are conducted and expenditures are made in an effective, efficient, and economical manner and in compliance with the requirements of applicable laws and regulations, including decisions of the Comptroller General.

c. Whether the resources of the agency, including funds, property, and personnel, are adequately controlled and utilized in an effective, efficient, and economical manner.

d. Whether all revenues and receipts arising from the operations under examination are collected and properly accounted for.

e. Whether the agency's accounting system complies with the principles, standards, and related requirements prescribed by the Comptroller General.

f. Whether reports by the agency to the Congress and the central control agencies disclose properly the information required for the purposes of the reports.

2. The usual emphasis of current GAO audits is on the "big picture" and typically includes reviews of (a) activities of the agency against the backdrop of governing laws and Congressional intent, (b) management controls and (c) budgetary and financial control practices. Continuing attention is given to possible duplications of effort within an agency or with activities of other agencies.

D. Impact on CIA of Resumption of GAO audit of agency activities.

1. It seems obvious that unlimited access by GAO to agency activities to achieve the general and specific objectives discussed above and full public reporting of the results of audits would be unacceptable.

2. The comments and conclusions which follow take into consideration the positions of each of the Directorates based upon careful soundings by the respective directorate representatives of the principal components in their Directorates for an objective analysis of the potential impact of a comprehensive GAO audit on the diverse functions of each such component.

a. Each of the Directorates has expressed a variety of very legitimate concerns about a comprehensive and unrestricted GAO audit. These concerns all basically relate in a broad sense to the need to protect the sensitive intelligence sources and methods which the Director by statute must protect from unauthorized disclosure. It is also the consensus that it is a basic requirement for the successful conduct of sensitive aspects of the Agency mission that the Director's 8(b) authorities be preserved. In the future as in the past, it will be necessary to undertake actions of extreme sensitivity for which a withholding of information from all except those directly involved is essential to the success of the action. In the context of these concerns there is general agreement in a pragmatic sense that in determining the potential scope of audit should GAO nevertheless resume an audit function, a clear distinction must be made between:

(1) activities which would provide information to the auditors which if divulged would represent an unauthorized disclosure of intelligence sources and methods

versus

(2) activities which would directly compromise the Agency mission and thus cannot be allowed, e.g., various external verifications or evaluations of transactions or activities not openly Agency sponsored. A listing of such transactions or activities follows:

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b. There presumably should be no real controversy in reaching agreement with GAO upon the types of activities which cannot be allowed because they would compromise the Agency mission. Likely to be much more difficult will be the denial of access by GAO to the following kinds of activities or information involving especially sensitive intelligence sources and methods or operations which are treated within the Agency on a highly compartmentalized basis:

- (1) Identities of agents, sources and persons and organizations involved in operations which, if disclosed, could subject them or their families to personal physical danger, or to extreme harassments, or to economic or other reprisals.
- (2) Designated highly sensitive material provided confidentially by cooperating foreign intelligence services which if disclosed could eliminate the foreign intelligence service as a source of further information.
- (3) Specific details of designated sensitive intelligence methods and techniques of collection which if disclosed would compromise and terminate the viability of the method or technique.
- (4) Designated sensitive operations for which expenditures will be certified by the Director under section 8(b) which if disclosed could destroy the effectiveness of the operation.

c. Although GAO in the normal execution of its audit programs might not necessarily press for the foregoing categories of information, the point is that in the absence of an agreement any auditor has a right in a normal audit situation to any information he believes to be relevant to his audit mission. Hence the importance of treating the principle here involved as an issue for open resolution.

d. The Task Force believes it is important to emphasize that this proposed audit limitation cannot be monitored simply

by denying access to financial vouchers covered by DCI certification under section 8(b). Much of such information is not related directly to specific disbursements, hence it is important to establish the broader principle of denying access not on the basis of DCI certification of funds but on the basis of the substance of the information.

e. There is general recognition in relation to all of the foregoing the Agency has never been immune to the risk of unauthorized disclosure by its own employees either by carelessness or by design, particularly on the part of employees who have terminated their Agency association. The risk of such leaks is of course minimized by a large body of security practices with heavy emphasis on compartmentation and the need-to-know principle. The missing ingredient in security practices is of course the lack of a law (which the Director has requested) which would impose penalties against unauthorized disclosures.

#### E. Security

1. Any resumption of GAO audit whether based on a legislative directive or on the request of the Director, will necessarily require negotiations between the Director and the Comptroller General to establish the general parameters for the scope of audit and related arrangements. In this context it is believed as a precondition to resumption of any GAO audit relationship:

a. That all GAO personnel to be involved directly or indirectly in such audits should be subject to identical security arrangements as pertain to Agency personnel, i.e., full security clearance(s), execution of secrecy agreements, and observance of the compartmentation principle to the maximum practical extent.

b. That audit reports should be subject to review and sanitization by the Agency to protect sensitive intelligence sources and methods.

c. That classification and distribution of audit reports should be subject to Agency review.

d. That all written materials used or developed in conjunction with the audits should be secured in accordance with Agency security standards.

2. It is believed there should be a direct correlation between the foregoing security and control arrangements assuring protection of sources and methods and the agreed upon scope of audit; i.e., the extensiveness of scope agreed upon should be contingent upon the security and control arrangements.

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## F. Audit Options

After full exploration of the range of viable options for consideration other than continuation of the present status quo, only two are considered viable in the circumstances. Resumption of a limited audit of pre-1962 scope is not included because there is nothing to suggest such an approach would be more palatable to GAO today than when it was discontinued. The two options are as follows:

### 1. Systems Audit (Least Impact)

a. Review of Agency Audit Staff procedures, the Agency Accounting System and supporting procedures for Agency financial administration. Such a periodic systems audit or review could provide Congressional Oversight Committees with an independent evaluation and confirmation that generally accepted accounting principles and standards are being observed by the Agency in its stewardship of public funds and that audits are conducted in accordance with Federal Audit Standards.

b. It is the consensus of the Task Force this type of review could be accommodated without undue risk to unauthorized disclosure of intelligence sources and methods. As a matter of precedent the Agency on its own initiative in 1973 engaged Touche Ross and Company to review Agency audit practices. The principal conclusions of that review were that (1) the overall internal audit effort is adequate to safeguard Agency assets and ensure administrative compliance with laws and regulations and (2) Agency management should encourage broader audit coverage of the economy, efficiency and effectiveness with which its programs are conducted. A similar review by GAO would have the advantage of placing the Agency in compliance with the GAO requirement upon Federal agencies generally for GAO review and approval of Agency accounting systems.

### 2. Full Scope Audit in accordance with GAO Standards with Limitations.

a. Full access to internal fiscal and program documentation for all CIA activities excluding access to:

(1) Identities of agents, sources and persons and organizations involved in operations which, if disclosed, could subject them or their families to personal physical danger, or to extreme harassments, or to economic or other reprisals.

(2) Designated highly sensitive material provided confidentially by cooperating foreign intelligence services

which if disclosed could eliminate the foreign intelligence service as a source of further information.

(3) Specific details of designated sensitive intelligence methods and techniques of collection which if disclosed would compromise and terminate the viability of the method or technique.

(4) Designated sensitive operations for which expenditures will be certified by the Director under section 8(b) which if disclosed could destroy the effectiveness of the operation.

b. In addition to denying access to information as described above there must also be a prohibition against actions, conventional for auditors, in normal circumstances, that would actually compromise sensitive activities or programs. More specifically there must be restrictions against external pursuit of any audit trail, confirmation of any transaction or investigation of attainment of any program objective that would reveal auditor/U.S. Government/CIA interest directly or indirectly to any individual, institution, or foreign government not witting of CIA association with the matter of concern to the auditor; or in the case of witting relationships would violate a mutually binding commitment to keep the fact of such relationships secret. Similar restrictions are a "way of life" to Agency certifying officers and Agency auditors. As representative examples, a GAO auditor (Agency auditor or Finance certifying officer) could not (a) go into a Swiss bank to confirm receipt by the bank of a deposit into a numbered account, (b) review the activities of external action parties carrying out a covert action program, or (c) interview key persons associated with the target of the covert action program to assess the degree to which the program may have attained its objectives. A detailed listing of transactions or activities which should not be subjected to external review or verification is provided beginning on page 5, paragraph III.D.2.a.(2).

c. It is the consensus of the Task Force that this type of review would create a potential risk of unauthorized disclosure of intelligence sources and methods which would increase in direct proportion to any erosion of the limits on GAO access stipulated above. General public knowledge and awareness of an expanded scope of audit could also serve as a deterrent to the recruitment of agents and to the enlistment of support of bankers, attorneys, companies, liaison services, etc., so necessary to the accomplishment of the overall Agency mission.

d. Under either of the audit options described above circumstances will inevitably arise where there will be differences of view between the GAO and Agency components as to the scope and

definition of information to be made available. As a forum for establishing and administering guidelines for implementing any agreement with the Comptroller General, it is suggested a Senior Review Panel comprised of the Associate Deputy Directors and the General Counsel be established. Issues not satisfactorily resolved by the Panel would necessarily be referred to the Director for resolution directly with the Comptroller General. It is suggested this Senior Review Panel should also provide a forum for resolving any differences of view between Agency components and GAO concerning areas in which external verifications are suitable.

#### IV. RECOMMENDATIONS

If GAO review of the Agency is mandated by an Act of Congress, or if the Director determines to undertake negotiations with GAO for an audit on his own initiative, the GAO Audit Task Force recommends:

1. That the following principles guide the Director's negotiations:

a. That GAO personnel and reports must be subject to security limitations acceptable to the Agency. These are enumerated on page 8, paragraph III.E. of this report.

b. That the Director seek to have a GAO audit limited to a Systems Audit, as defined and discussed on page 9, paragraph III.F.1. of this report.

c. That if a "full scope audit" by GAO is instituted, the Director exercise his authority under Section 8(b) of the CIA Act and his responsibility to protect intelligence sources and methods so that:

(1) GAO would not be permitted external review or verification of certain activities (enumerated beginning on page 5, paragraph III.D.2.a.(2)) which would compromise Agency activities, and

(2) GAO would not be permitted access to internal documentation relating to certain extremely sensitive activities (categories of information listed beginning on page 9, paragraph III.F.2.a).

2. That a senior review panel comprised of the Associate Deputy Directors and the General Counsel be named to implement and administer any arrangement for resumption of GAO audit of Agency activities.

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